IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION No. 10032 of 2004

Between:

1 N. Benerji S/o Radhakrishna Rao
2 Smt. N. Parvathi W/o Radhakrishna Rao
3 Smt. N. Ratna Jyothi W/o Benerji
4 Smt. N. Padmaja W/o Srinivas,
All the petitioners are residents of Indupalli Village,

Ungutur (M), Krishna District

..... PETITIONERS

AND

1 The Assistant Commissioner of Endowments, Vijayawada,

Krishna District.
2 The Managing Trustee, Sri Chenna Kesava Swamy Temple, Indupalli

(V), Ungutur (M), Krishna District
3 Sri Chenna Kesava Swamy Temple, Indupalli (V) Ungutur (M),

Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in proposing to conduct auction of leasehold rights in respect of Ac. 10.12 cents in Sy. No. 334 bounded by East-Panta Kalava, West-Chintala Kalava North-Land belongs to Sri Chennakesava Swamy Temple, South-land being cultivated by poojar (Priest) of Indupalli (V), Ungutur(M), Krishna District, as contrary to the provisions of Andhra Pradesh

Charitable and Hindu Religious Institutions and Endowments Act and rules and contrary to the order of this Court passed in W.P. No. 13381/03 dt 13-08-2003 and also violative of Articles 14, 19 of the Constitution of India and set a side the said notice and direct the respondents to drop all further proceedings against the petitioners in pursuance of the above said notice and continue the petitioner in possession of the lands.

Counsel for the Petitioner : Mr.SRINIVAS DAMMALAPATI

Counsel for Respondent No.1 : GP FOR ENDOWMENTS

Counsel for Respondent Nos.2&3: Mr.A.RAJENDRA BABU

The Court made the following :

ORDER:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioners who claim to be cultivating tenants in respect of the lands in question in Survey No.334 situated at Indupalli village of Krishna district, filed this writ petition, inter alia, seeking writ of mandamus to declare the action of respondents in proposing to conduct auction of leasehold rights in respect of the lands in question as illegal and arbitrary.

The case of the petitioners is that this Court on an earlier occasion gave a comprehensive direction to the respondents to decide the rights of the petitioners along with others. Though petitioners after receiving notice, appeared before the respondents, by producing the certificate substantiating their contentions, but respondents have not passed any orders thereon. Hence the present writ petition.

The learned counsel appearing on behalf of respondents submit that in pursuance of the directions given by this Court, final orders have already been passed on 21.10.2003 and subsequently notice under Section 84 of the Act 30 of 1987 was issued and therefore the petitioners are not entitled for any relief.

The learned counsel for petitioners on the other hand submits that petitioners have already raised a paddy crop which is still standing on the land and unnecessarily the respondents are interfering with the same.

Having considered the submissions made and on perusal of the material, it is seen that having regard to the final orders already passed on 21.10.2003, it is always open to the petitioners to take appropriate steps to challenge the final orders, if not already passed.

Admittedly, petitioners were in possession and it is they who have raised the crop, there cannot be any objection to harvest the said crop. However, the learned counsel for respondent submits that there are arrears due towards makhta by the petitioners.

Having regard to the facts and circumstances, the writ petition is accordingly disposed of permitting the petitioner to harvest the crop in the said land subject to payment of all arrears of makhta to the respondents. No costs.

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B.PRAKASH RAO, J

Date: 20.8.2004

Note:

Issue CC in (3) days

B/o

KVRK/DA

To

1 The Assistant Commissioner of Endowments, Vijayawada,

Krishna District.

2 The Managing Trustee, Sri Chenna Kesava Swamy Temple, Indupalli

(V), Ungutur (M), Krishna District

3 Sri Chenna Kesava Swamy Temple, Indupalli (V) Ungutur (M),

Krishna District.

4 Two CCs to the G.P.for Endowments, High Court of A.P, Hyderabad.

5. Two CD copies.